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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,804	12/30/2003	Peter J. Myers	20014/38782	2126

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EXAMINER

PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/748,804

**Applicant(s)**

MYERS ET AL.

**Examiner**

Hau V Phan

**Art Unit**

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19, 22 and 24-43 is/are rejected.
- 7) ☒ Claim(s) 20, 21 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-4, 7-8, 12-19, 22, 24-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Liu (5,727,800).**

Liu in figures 4-8, discloses a baby-walker comprising a base (62, as broadly recited), a seat (not number) and a wheel walker to at least partially support the seat above the base. The wheel walker being removable from the base.

Regarding claim 2, Liu discloses the seat, which is rotatable relative to the base.

Regarding claim 3, Liu discloses the seat comprising a fabric or plastic seat supported within a ring.

Regarding claim 2, Liu discloses the seat, which is adjustable to adjust a distance between the seat and the base.

Regarding claim 7, Liu discloses the wheel walker comprising a tray.

Regarding claim 8, Liu discloses the tray, which is at least partially supported by the wheeled walker.

Regarding claim 12, Liu discloses the wheeled walker, which is removed from the base. The tray can be disposed above the base to permit a child seated on the floor to play with the at least one toy.

Regarding claim 13, Liu discloses the tray, which is coupled to the base by an arm (a linkage 3 can be considered an arm).

Regarding claim 14, Liu discloses the tray, which is pivotably coupled to the arm.

Regarding claim 15, Liu discloses the arm having an upper portion and a lower portion. The upper and lower portions being joined by at least one hinge.

Regarding claim 16, Liu discloses the hinge, which is rotatably coupled to at least one of the upper and lower portions to permit rotation of at least one of the upper and lower portions about a longitudinal axis of the arm.

Regarding claim 17, Liu discloses the upper portion of the arm, which is pivotably coupled to the tray and the lower portion of the arm is pivotably coupled to the base.

Regarding claims 18-19, Liu discloses the arm having an upper portion and a lower portion, at least one of the upper and lower portions being rotatable relative to another of the upper and lower portions. Wherein the upper and lower portions are rotatable about a longitudinal axis of the arm.

Regarding claim 22, Liu discloses springs (6252) to permit bouncing movement between the seat and the base.

Regarding claim 24, Liu discloses the base comprising a domed surface beneath the seat.

Regarding claim 25, Liu discloses the base is rockable.

Regarding claim 26, Liu discloses a lock out mechanism to selectively substantially prevent rocking of the base.

Regarding claim 27, Liu discloses the lock out mechanism including a leg carrying a state message and the base defines a window positioned to display the state message when the lock out mechanism is in a predetermined state associated with the state message (figure 8).

Regarding claim 28, Liu discloses the wheeled walker comprising at least one leg.

Regarding claim 29, Liu discloses the wheeled walker further comprising an upper frame coupled to the at least one leg.

Regarding claim 30, Liu discloses a handle (a top table peripheral can be used as a handle) located to be gripped by a standing child.

Regarding claim 31, Liu discloses the handle is movable from a stored position to a use position.

Regarding claim 32, Liu discloses a child entertaining apparatus comprising a base (62), a seat (not number) and a support (2) to at least partially support the seat above the base. The support has wheels (4) and being removable from the base to permit rolling of the wheels on a floor.

Regarding claim 33, Liu discloses a child entertaining apparatus comprising a base (62), a tray (a top portion can be considered a tray) pivotably coupled to the base and a removable support (2) positionable between the base and the tray to support the tray above the base.

Regarding claim 34, Liu discloses a child entertaining apparatus comprising base (62), a seat pivotably coupled to the base and a removable support positionable between the base and the seat to support the seat above the base.

Regarding claim 35, Liu discloses an apparatus comprising a base (62), a tray (1) and a hinged arm (3) joining the tray to the base such that the tray is movable between a first height above the base and a second height above the base.

Regarding claim 36, Liu discloses a child entertaining apparatus comprising a wheeled walker for use by a child able to stand and a walker alternative comprising a seat, a base, and the wheeled walker, wherein the wheeled walker at least partially supports the seat above the base.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu (5,727,800) as applied to claim 1 above, and further in view of Sudo (3,796,430).**

Liu discloses the seat, but fails to show a shortening mechanism.

Sudo in figures 1-2, teaches a baby walker comprising a seat (4) including a shortening mechanism. The shortening mechanism includes a buckle, a first belt

having a first end fixed to the seat and a second end coupled to the buckle and a second belt having a first end fixed to the seat and a second end coupled to the buckle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the seat of Liu with the baby walker having a seat including a shortening mechanism as taught by Sudo in order to adjust the height of the seat.

**5. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu (5,727,800) as applied to claim 8 above, and further in view of Perego (5,071,149)**

Liu discloses the tray, but fails to show the tray is removably secured to the wheel walker.

Perego in figure 2, teaches a go cart for children comprising a tray (15), which is removably secured to the cart. The tray comprises at least one toy coupled to the tray. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the wheel walker of Liu with the go cart for children having a removably tray, which includes at least one toy as taught by Perego in order to satisfy every play and cognitive requirement of the child.

***Allowable Subject Matter***

6. Claims 20-21 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hsieh discloses an infant training walker, Chien discloses a go-cart restainer, Hu discloses a baby's carriage for teaching children to walk.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 703-308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau V Phan  
Examiner  
Art Unit 3618

*Hau Phan*  
*2/2/05*